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10 **UNITED STATES BANKRUPTCY COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

12 In re:

13 Kenneth Calvin McBee,

14 Debtor.

Case No. 10-71694

Chapter 13

R.S. No. MDE-1603

**MOTION FOR RELIEF FROM  
AUTOMATIC STAY**

Hearing:

Date: December 4, 2015

Time: 10:00 a.m.

Place: Courtroom 215  
1300 Clay Street  
Oakland, CA 94612

15 **TO THE HONORABLE CHARLES DANIEL NOVACK, UNITED STATES BANKRUPTCY**  
16 **COURT JUDGE, THE DEBTOR, DEBTOR'S COUNSEL, THE TRUSTEE, AND OTHER**  
17 **INTERESTED PARTIES:**

18 Harley-Davidson Credit Corp ("Movant") hereby moves this Court for an Order granting relief  
19 from the automatic stay under 11 U.S.C. § 1301 as to the Co-Debtor Robert F. Colbert in the above-  
20 captioned matter so that Movant may enforce its remedies against the property in accordance with  
21 applicable non-bankruptcy law on the personal property commonly described as 2005 HARLEY-  
22 DAVIDSON FLTRI ROAD GLIDE, vehicle identification number: 1HD1FSW375Y634574 (the  
23 "Property").

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1 Movant hereby moves this Court for an Order granting relief from the automatic stay as to the  
2 co-debtor stay of 11 U.S.C. § 1301, on the following grounds:

3 1. **Pursuant to 11 U.S.C. § 362(d)(1), Movant's interest is not adequately protected as**  
4 **Debtor has failed to make post-petition payments:** The evidence establishes that Debtor has failed  
5 to make post-petition payments to Movant. Therefore, Movant's interest in the Property is not  
6 adequately protected.

7 2. **Pursuant to 11 U.S.C. § 1301, request for relief from co-debtor stay:** Robert F. Colbert is a  
8 co-debtor because he/she is one of the owners of record and is liable under the Agreement.

9 Movant submits the attached Declaration and Memorandum of Point & Authorities, as well as  
10 other evidence attached hereto in support of its Motion.

11 **WHEREFORE**, Movant prays that this Court issues an Order as follows:

12 1. An Order Granting Relief from the Automatic Stay to allow Movant, its successors, transferees,  
13 and assigns, to proceed under applicable non-bankruptcy law to enforce its remedies against the  
14 Property.

15 2. The co-debtor stay of 11 U.S.C. § 1301 be terminated, modified or annulled as to the co-debtor,  
16 Robert F. Colbert, on the same terms and conditions as to the Debtor.

17 3. The Order be binding and effective despite any conversion of this bankruptcy case to a case  
18 under any other chapter of Title 11 of the United States Code.

19 4. The 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

20 5. If relief from stay is not granted, Movant respectfully requests the Court to order adequate  
21 protection.

22 6. Any further relief as the Court deems just and proper.

23 Dated: 11/12/2015

Respectfully Submitted,  
Buckley Madole, P.C.

24  
25 By: /s/ Mark D. Estle  
26 Mark D. Estle  
27 Attorney for Movant  
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